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Paper No.

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**MAILED**

SEP 27 2010

**OFFICE OF PETITIONS**

In re Application of :  
Roberts et al. : DECISION ON  
Application No. 10/816,452 : APPLICATION FOR  
Filed: 03/31/2004 : PATENT TERM ADJUSTMENT  
Attorney Docket No. :  
01374-294 : :

This is a decision on the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. § 1.705(b)" filed on June 8, 2010.

Applicants request that the Patent Term Adjustment for the above-identified patent be corrected from 1189 days to 1348 days.

The application for patent term adjustment patent is **GRANTED**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is ONE THOUSAND THREE HUNDRED FORTY-EIGHT (1348) days. A copy of the updated PAIR screen, showing the revised determination, is enclosed.

On March 8, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1189 days (1438 days of Office delay reduced by 249 days of applicant delay). The subject application for patent term adjustment was timely filed on June 8, 2010.<sup>1</sup>

Applicants dispute the reduction of 159 days for the filing of the Supplemental Amendments on February 4, 2010, and February 17, 2010, respectively, after the filing of a reply on September 11, 2009. Applicants contend that the Supplemental Amendments were expressly requested by the examiner. Given these

<sup>1</sup> PALM records shows that the Issue Fee was received on June 8, 2010.

assertions, applicants maintain that the PTA at the time of the mailing of the notice of allowance is 1348 days.

37 CFR 1.704(c)(8) provides that the filing of a supplemental reply, other than one expressly requested by the examiner, constitutes a failure to engage in reasonable efforts to conclude processing or examination. The record has been reviewed and it is concluded that the Supplemental Amendments filed on February 4, 2010, and February 17, 2010, were expressly requested by the examiner within the meaning of 37 CFR 1.704(c)(8). Accordingly, the 159 day reduction is not warranted and will be removed.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance is revised to ONE THOUSAND THREE HUNDRED FORTY-EIGHT (1348) days (1438 days of PTO delay, reduced by 90 (249 - 159) days of Applicant delay).

The application is being forwarded to the Office of Data Management for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Douglas I. Wood, Senior Petitions Attorney, at (571) 272-3231.



Anthony Knight  
Director  
Office of Petitions

Encl: Revised PAIR Calculation



# Patent Term Adjustments



[PTA/PTE Information](#) [Patent Term Adjustment](#) [Patent Term Extension](#)

Application Number\*: 10816452 [Search](#) [Explanation of PTA Calculation](#) [Explanation of PTE Calculation](#)

## PTA Calculations for Application: 10816452

Application Filing Date 03/31/2004		Issue Date of Patent	OverLapping Days Between (A and B) or (A and C) 0	Non-Overlapping USPTO Delays: 1438
A Delays	B Delays	C Delays	PTO Manual Adjustment 159	Applicant Delay (APPL) 249
1438	0	0		
			Total PTA (days) 1348	

\* - Sorted Column

## File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
46	09/25/2010		PO28	Adjustment of PTA Calculation by PTO	159	0	
38	03/08/2010	01/11/2010	MM/ =	Mail Notice of Allowance	56	24	
37	03/02/2010		IREV	Issue Revision Completed			
36	03/02/2010		DVER	Document Verification			
35	03/02/2010		N/ =	Notice of Allowance Data Verification Completed			
34	03/01/2010		CNTA	Notice of Allowability			
33	02/17/2010		FWDX	Date Forwarded to Examiner			
32	02/17/2010	09/11/2009	SA..	Supplemental Response	159	24	
31	02/17/2010		FWDX	Date Forwarded to Examiner			
30	02/04/2010		SA..	Supplemental Response			
25	10/27/2009		FWDX	Date Forwarded to Examiner			
24	09/11/2009	06/13/2009	ELC	Response to Election / Restriction Filed	90	22	
23	09/11/2009		XT/G	Request for Extension of Time - Granted			
22	03/13/2009	05/31/2005	MCTR	Mail Restriction Requirement	1382	-1	
21	03/12/2009		CTRS	Requirement for Restriction / Election			
20	03/02/2009		DOCK	Case Docketed to Examiner in GAU			
19	02/11/2009		DOCK	Case Docketed to Examiner in GAU			
18	12/30/2008		DOCK	Case Docketed to Examiner in GAU			
17	10/06/2008		DOCK	Case Docketed to Examiner in GAU			
16	10/17/2007		WS25	Withdraw Flagged for 5/25			
15	10/15/2007		FS25	Flagged for 5/25			
14	01/24/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			
13	01/24/2006		DOCK	Case Docketed to Examiner in GAU			
12	09/08/2004		T1105C	Transfer Inquiry to GAU			
11	06/31/2004		WR0IPE	Application Return from OIPE			
10	08/31/2004		ROIPE	Application Return TO OIPE			
9	06/31/2004		OIPE	Application Dispatched from OIPE			
8	08/31/2004		COMP	Application Is Now Complete			
7	08/10/2004		ADDFLFEF	Additional Application Filing Fees			
6	08/10/2004		OATHDECL	A statement by one or more Inventors satisfying the requirement under 35 USC 115, Oath of the Applic			
5	06/14/2004		INCO	Notice Mailed--Application Incomplete--Filing Date Assigned			
4	05/05/2004		L194	Cleared by OIPE CSR			
3	05/05/2004		CLSS	CASE CLASSIFIED BY OIPE			
2	04/14/2004		SCAN	IFW Scan & PACR Auto Security Review			
1	03/31/2004		TEXX	Initial Exam Team nn			

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